

**Texas Department of Insurance, Division of Workers' Compensation**

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION**PART I: GENERAL INFORMATION**

Requestor's Name and Address:	MFDR Tracking #:	M4-09-B361-01
	DWC Claim #:	
	Injured Employee:	
	Date of Injury:	
Respondent Name and Box #: ACE INSURANCE CO. OF TEXAS REP. BOX: 15	Employer Name:	
	Insurance Carrier #:	

PART II: REQUESTOR'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Requestor's Position Summary as stated on the Table of Disputed Services: Out-of-pocket expenses; could not find a workers' comp Dr. who would treat me; my only income is Social Security Disability which is only \$1,135.00 per mo."

Principle Documentation:

1. DWC 60 package
2. Total Amount Sought - \$68.20
3. Receipts

PART III: RESPONDENT'S POSITION SUMMARY AND PRINCIPLE DOCUMENTATION

Respondent's Position Summary: "...This dispute involves an office visit and prescriptions for the date of service 8/9/09 [sic]. The Claimant paid for this treatment but did not submit a request to the Carrier for reimbursement. Further, the requests do not indicate for what the Claimant is treating. Therefore, it is underdetermined if the treatment was for the Claimant's workers' compensation injury. Additionally, the medications were prescribed by Dr. Daugherty who is not the Claimant's treating doctor for the 1993 [sic] work related injury. Per the Division's representative, the Claimant's treating doctor is George Brooks, M.D. who was approved as the treating doctor in February 2003. Therefore, as all healthcare must be at the direction of the treating doctor, the Carrier is not liable for the requested reimbursement as they were not at the direction of the treating doctor..."

PART IV: SUMMARY OF FINDINGS

Eligible Dates of Service (DOS)	CPT Codes and Calculations	Part V Reference	Amount Ordered
08/07/09	Out-of-pocket expenses for Office (1 office visit @ \$40.00)	1 – 5	\$0.00
08/07/09	Out-of-pocket expenses for prescription medications (1 Rx @ 10.00; 1 Rx @ \$4.00; and 1 Rx @ \$14.20 = \$28.20)	1 – 5	\$0.00
Total:			\$0.00

PART V: REVIEW OF SUMMARY, METHODOLOGY AND EXPLANATION

Texas Labor Code Section 413.011(a-d), titled *Reimbursement Policies and Guidelines*, and 28 Texas Administrative Code (TAC) Section 134.504, titled *Pharmaceutical Expenses Incurred by the Injured Employee* on or after March 13, 2004, set out the reimbursement guidelines.

1. Review of the submitted information reveals the claimant incurred out-of-pocket expenses for office visits and prescription medications for date of service 08/07/09.

2. The Respondent states in their position summary that the Claimant did not submit the receipts to the Carrier for reimbursement. According to Division Rule at 28 Texas Administrative Code, Section 133.307(d)(3) the Claimant has not submitted convincing evidence of the employee's attempt to obtain reimbursement from the carrier.
3. The Division has raised issues in order to administer the dispute process consistent with the provisions of the Labor Code and Division rules. The 28 TAC (Section 133.307(e) (2), states, "MDR Action. The Division will review the completed request and response to determine appropriate MDR action....Issues Raised by the Division. The Division may raise issues in the MDR process when it determines such an action to be appropriate to administer the dispute process consistent with the provisions of the Labor Code and Division rules."
4. According to the Texas Labor Code Section 408.022(a), except in an emergency, the division shall require an employee to receive medical treatment from a doctor chosen from a list of doctors approved by the commissioner. A doctor may perform only those procedures that are within the scope of the practice for which the doctor is licensed. The employee is entitled to the employee's initial choice of a doctor from the division's list. According to the medical dispute information system the treating doctor of record is Dr. George Alfred Brooks; the receipts submitted by the claimant show that Dr. Brian Daugherty was the doctor the claimant saw for treatment of the compensable injury. The prescription receipts show that Dr. Brian Daugherty is the doctor that prescribed the medications in dispute. Review of the information system for the Division of Workers' Compensation does not contain form DWC-53 requesting a change in treating doctor's from Dr. Brooks to Dr. Daugherty.
5. For the reasons noted above reimbursement is not recommended.

PART VI: GENERAL PAYMENT POLICIES/REFERENCES

Texas Labor Code Sections 408.022(a), 413.011(a-d), 413.031 and 413.0311
28 Texas Administrative Code Section. 134.504, 133.307, 134.1

PART VII: DIVISION DECISION AND/OR ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Section 413.031, the Division has determined that the Requestor is not entitled to reimbursement for the services involved in this dispute.

DECISION:

Authorized Signature

Auditor III
Medical Fee Dispute Resolution

September 23, 2009

Date

PART VIII: YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division Rule 148.3(c).

Under Texas Labor Code Section 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 Rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code Section 413.031.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.